

## PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF ELECTION  
(PCT Rule 61.2)

To:

Assistant Commissioner for Patents  
 United States Patent and Trademark  
 Office  
 Box PCT  
 Washington, D.C.20231  
 ETATS-UNIS D'AMERIQUE

in its capacity as elected Office

Date of mailing (day/month/year) 28 July 2000 (28.07.00)	
International application No. PCT/US99/26240	Applicant's or agent's file reference 1909.004PC02/JAG/CMB
International filing date (day/month/year) 08 November 1999 (08.11.99)	Priority date (day/month/year) 06 November 1998 (06.11.98)
Applicant CARCAGNO, Carlos, Miguel et al	

1. The designated Office is hereby notified of its election made:

in the demand filed with the International Preliminary Examining Authority on:

01 June 2000 (01.06.00)

in a notice effecting later election filed with the International Bureau on:

\_\_\_\_\_

2. The election  was

was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer  Olivia RANAIVOJAONA
Facsimile No.: (41-22) 740.14.35	Telephone No.: (41-22) 338.83.38

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 1792.004PC02	FOR FURTHER ACTION	see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.
International application No. PCT/US99/26240	International filing date (day/month/year) 08 NOVEMBER 1999	(Earliest) Priority Date (day/month/year) 06 NOVEMBER 1998
Applicant STERRENBELD BIOTECHNOLOGIE NORTH AMERICA		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 2 sheets.

It is also accompanied by a copy of each prior art document cited in this report.

1.  Certain claims were found unsearchable (See Box I).
2.  Unity of invention is lacking (See Box II).
3.  The international application contains disclosure of a nucleotide and/or amino acid sequence listing and the international search was carried out on the basis of the sequence listing
  - filed with the international application.
  - furnished by the applicant separately from the international application,
    - but not accompanied by a statement to the effect that it did not include matter going beyond the disclosure in the international application as filed.
  - transcribed by this Authority.
4. With regard to the title       the text is approved as submitted by the applicant.
   
 the text has been established by this Authority to read as follows:
5. With regard to the abstract,
  - the text is approved as submitted by the applicant.
  - the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.
6. The figure of the drawings to be published with the abstract is:  
 Figure No. \_\_\_\_\_
  - as suggested by the applicant.
  - because the applicant failed to suggest a figure.
  - because this figure better characterizes the invention.

## INTERNATIONAL SEARCH REPORT

International application No.

PCT/US99/26240

**A. CLASSIFICATION OF SUBJECT MATTER**

IPC(7) : C12N 5/00, 5/02; A01N 63/00; A01N 1/02  
 US CL : 435/325, 405, 1.1; 424/93.1

According to International Patent Classification (IPC) or to both national classification and IPC

**B. FIELDS SEARCHED**

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 435/325, 405, 1.1; 424/93.1

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

STN, WEST

**C. DOCUMENTS CONSIDERED TO BE RELEVANT**

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	JIXIAN, D. et al. Serum-free medium used for the production of rHuEPO. Junshi Yixue Kexueyuan Yuankan. 1997, Vol. 21, No. 4, pages 244-246, see English abstract.	1-12

 Further documents are listed in the continuation of Box C. See patent family annex.

* Special categories of cited documents:	*T*	later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
*A* document defining the general state of the art which is not considered to be of particular relevance	*X*	document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
*B* earlier document published on or after the international filing date	*Y*	document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
*L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	*&*	document member of the same patent family
*O* document referring to an oral disclosure, use, exhibition or other means		
*P* document published prior to the international filing date but later than the priority date claimed		

Date of the actual completion of the international search

21 JANUARY 2000

Date of mailing of the international search report

22 FEB 2000

Name and mailing address of the ISA/US  
Commissioner of Patents and Trademarks  
Box PCT  
Washington, D.C. 20231

Facsimile No. (703) 305-3230

Authorized officer  
YVETTE S. CONNELL  


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# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT

**(PCT Article 36 and Rule 70)**

Applicant's or agent's file reference 1909.004PC02	FOR FURTHER ACTION      See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US99/26240	International filing date (day/month/year) 08 NOVEMBER 1999	Priority date (day/month/year) 06 NOVEMBER 1998
International Patent Classification (IPC) or national classification and IPC IPC(7): C12N 5/00, 5/02; A01N 63/00; A01N 1/02 and US Cl.: 435/325, 405, 1.1; 424/93.1		
Applicant STERRENBELD BIOTECHNOLOGIE NORTH AMERICA, INC.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority. (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 1 sheets.

3. This report contains indications relating to the following items:

- I  Basis of the report
- II  Priority
- III  Non-establishment of report with regard to novelty, inventive step or industrial applicability
- IV  Lack of unity of invention
- V  Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI  Certain documents cited
- VII  Certain defects in the international application
- VIII  Certain observations on the international application

Date of submission of the demand 01 JUNE 2000	Date of completion of this report 01 MARCH 2001
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231	Authorized officer  SUMESH KAUSHAL
Facsimile No. (703) 305-3230	Telephone No. (703) 308-0196

**I. Basis of the report****1. With regard to the elements of the international application:\*** the international application as originally filed the description:

pages \_\_\_\_\_ (See Attached) \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

 the claims:

pages \_\_\_\_\_ (See Attached) \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement) under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

 the drawings:

pages \_\_\_\_\_ (See Attached) \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

 the sequence listing part of the description:

pages \_\_\_\_\_ (See Attached) \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- contained in the international application in printed form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

**4.  The amendments have resulted in the cancellation of:**

- the description, pages \_\_\_\_\_ NONE
- the claims, Nos. \_\_\_\_\_ NONE
- the drawings, sheets/fig \_\_\_\_\_ NONE

**5.  This report has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\*Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US99/26240

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. statement**

Novelty (N)	Claims <u>4,5,7-12</u>	YES
	Claims <u>1-3 and 6</u>	NO
Inventive Step (IS)	Claims <u>4-5,7-12</u>	YES
	Claims <u>1-3 and 6</u>	NO
Industrial Applicability (IA)	Claims <u>1-12</u>	YES
	Claims <u>NONE</u>	NO

**2. citations and explanations (Rule 70.7)**

Claims 1-3 and 6 lack novelty under PCT Article 33(2) as being anticipated by Jixian et al, 1997.

Applicant claims a method for obtaining human erythropoietin comprising culturing mammalian cells which express recombinant human erythropoietin in culture medium comprising insulin, wherein the cells comprise CHO cells and wherein said culture media comprises fetal calf serum free media.

Jixian et al teaches serum free medium was used for the production of recombinant human erythropoietin(rHuEPO). Jixian teaches that various additives of serum free medium suitable to CHO cells were screened and included Se, ethanolamine, lipid, various vitamins, peptone, insulin, transferrin and some cytokines added in DMEM: F12 1:1 to constitute the serum free medium named SFM-P, which contained no bovine serum albumin but could support the growth and production of rHuEPO production of CHO cells. Jixian et al further teaches that CHO cells were cultured with 5% FBS medium for 9 days then substituted with SFM-p, in which cell culture could be maintained in a stable condition of rHuEPO production for 20 days in the bioreactor. Finally, Jixian et al teaches that rHuEPO could easily be separated from the culture supernatant, and that the experiments demonstrate that SFM-p can maintain the growth and rHuEPO production of the recombinant CHO cells.

Therefore, the claimed invention was clearly anticipated by Jixian et al who showed a method of obtaining rHuEPO comprising culturing mammalian cells which express rHuEPO in culture medium comprising insulin.

Claims 4, 5 and 7-12 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest a method wherein the culture media comprises greater than 1 mg or less than 20 mg of insulin per liter of (Continued on Supplemental Sheet.)

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

**I. BASIS OF REPORT:**

This report has been drawn on the basis of the description,  
page(s) 1-14, as originally filed.  
page(s) NONE, filed with the demand.  
and additional amendments:  
NONE

This report has been drawn on the basis of the claims,  
page(s) 15-16, as originally filed.  
page(s) NONE, as amended under Article 19.  
page(s) NONE, filed with the demand.  
and additional amendments:  
NONE

This report has been drawn on the basis of the drawings,  
page(s) NONE, as originally filed.  
page(s) NONE, filed with the demand.  
and additional amendments:  
Pages 1-4, filed with letter of 18 July 2000.

This report has been drawn on the basis of the sequence listing part of the description:  
page(s) 1-2, as originally filed.  
pages(s) NONE, filed with the demand.  
and additional amendments:  
NONE

**V. 2. REASoNED STATEMENTS - CITATIONS AND EXPLANATIONS (Continued):**

culture media. The prior art does not teach or suggest the method wherein the EPO is concentrated to 50-150 folds using tangential filtration system and sterile filtering of the concentrated product.

**----- NEW CITATIONS -----**

NONE